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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,332	04/18/2006	Detlef Biernat	ZEI-3304/500343.20325	9711

26418 7590 09/10/2008

REED SMITH, LLP  
ATTN: PATENT RECORDS DEPARTMENT  
599 LEXINGTON AVENUE, 29TH FLOOR  
NEW YORK, NY 10022-7650

EXAMINER
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STULTZ, JESSICA T

ART UNIT	PAPER NUMBER
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2873

MAIL DATE	DELIVERY MODE
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09/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/576,332	<b>Applicant(s)</b> BIERNAT ET AL.	
	<b>Examiner</b> JESSICA T. STULTZ	<b>Art Unit</b> 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

Claims 7-8 are objected to because of the following informalities: claim 7, line 3, "to the illumination source for continuous illumination of the sclera" should be "to the illumination source, which provides continuous illumination of the sclera" since there is no previous mention of the illumination source of claim 5 providing continuous illumination; claim 7, line 5, "by optical means" should be "by an optical means" since there is no previous mention of an optical means in claim 5; claim 8, line 3, "position of the fundus camera" should be "position of the fundus camera and/or ophthalmoscope". Appropriate correction is required.

For applicant's information, the amendments to claim 5, overcome the previous objection of this claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5-6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Glynn et al US 5/297,554 herein referred to as Glynn et al '554.

Regarding claim 5, Glynn et al '554 discloses an illumination unit ("8") for fundus cameras and/or ophthalmoscopes (Abstract and Column 4, line 20-Column 5, line 15 and Column 7, line 50-Column 8, line 4, wherein a light sensing means, i.e. ophthalmoscope is used to monitor the retina of an eye, Figures 8-9) comprising: an illumination source for emitting light

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(bulb "13", Column 7, lines 34-46, Figures 3-4); a front lens (lens "28"/"32"); and individual light-conduction fibers or bundles of light-conduction fibers which extend into the area of the front lens (fibers "10"), the fibers and the front lens being positioned such that they do not contact the eye being examined (Shown in Figures 8-9), wherein the light emitted by the illumination source is coupled into the fibers (fibers "10") and wherein ends of the fibers are formed in such a way that the exiting light is projected on the sclera of an eye to be examined and transilluminates the sclera (Column 8, line 48-Column 9, line 23, Shown in Figures 8-9).

Regarding claim 6, Glynn et al '554 further discloses that at least one light-conducting fiber or bundle of light-conducting fibers is provided and arranged in such a way that the light of the illumination source transilluminates the sclera in the nasal and temporal area (Shown in Figure 8-9).

Regarding claim 8, Glynn et al '554 further discloses that the ends of the light-conducting fibers or light-conducting fiber bundle located in the area of the front lens can be moved separately or jointly independent from the position of the fundus camera and/or ophthalmoscope (Column 9, lines 10-23, wherein the fibers of illumination system "8" are movable independent of the light sensing means, i.e. ophthalmoscope, Figures 8-9).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glynn et al '554, as applied to independent claim 5 above, and further in view of King US 4,575,208, herein referred to as King '208.

Regarding claim 7, Glynn et al '554 disclose an illumination unit as shown above wherein the illumination source provides continuous illumination of the sclera for purpose of observation (Abstract wherein the illumination source "9" provides continuous illumination to eye, Figures 8-9) wherein the light of the continuous illumination source is imaged onto the sclera by an optical means (Shown in figure 10, wherein the illumination source "9" provides illumination via lens "28"/"32"), but does not specifically disclose that the illumination unit comprises an additional pulsed light source provided for electronic and/or photographic documentation in addition to the illumination source, which provides continuous illumination of the sclera for purposes of observation, wherein the light of the continuous illumination source is imaged in the focal plane of the pulsed light source by an optical means. King '208 teaches of an illumination unit for fundus cameras and/or ophthalmoscopes (Column 1, lines 5-10, wherein a fundus camera is used to photograph the sclera of a patient's eye) comprising: an illumination source for emitting light (Column 3, lines 25-32, wherein the illumination source is "12", Figures 1-3); a front lens (lens "2", Figure 2); and a light-conducting fiber (Column 3, lines 33-66, wherein the source "12" is coupled into tube "20", Figures 1-5) which extends into the area of the front lens of the fundus camera (Column 3, lines 12-66, Figures 1-5); wherein the light emitted by the illumination source is coupled into the fibers and wherein ends of the fiber are formed in such a way that the exiting light is projected on the sclera of the eye to be examined and transilluminates the sclera (Column 2, lines 28-45) and further teaches that the illumination

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unit comprises an additional pulsed light source provided for electronic and/or photographic documentation (Column 3, line 33-Column 4, line 7, wherein the additional pulsed light source is strobe light "16" which provides a pulsed light for photography purposes, Figures 5-8) in addition to the illumination source which provides continuous illumination of the sclera for purposes of observation (Column 3, lines 25-33, wherein the light "12" provides continuous illumination of the sclera for focusing, Figures 5-8), wherein the light of the continuous illumination source is imaged in the focal plane of the pulsed light source by an optical means (Column 4, lines 39-66, wherein the strobe light "16"/"35" travels the same path as the focusing light "12"/"35" via a fiber optic cylinder "4"/"37", Figures 5-8) for the purpose of providing focusing of the eye to be photographed/examined and to avoid obliteration of a portion of eye due to reflections of light from the fiber optics (Column 4, lines 39-66). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the illumination unit of King '208 with that of Glynn et al '554 for the purpose of providing focusing of the eye to be photographed/examined and to avoid obliteration of a portion of eye due to reflections of light from the fiber optics (Column 4, lines 39-66).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reiner US 6,196,686 and Tsukada US 6,302,850 are cited as having some similar structure to the claimed invention since they disclose indirect ophthalmoscopes that illuminate the sclera of a patient's eye.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESSICA T. STULTZ whose telephone number is (571)272-2339. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jessica T Stultz  
Primary Examiner  
Art Unit 2873

/Jessica T Stultz/  
Primary Examiner, Art Unit 2873